

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

AMY L. SIMPLER, HANK SMITH, and )  
DAVID C. DELPERCIO, )  
Plaintiffs, )  
v. ) C.A. No. \_\_\_\_\_  
HSBC NORTH AMERICA HOLDINGS, INC., )  
Defendant. )

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that Defendant HSBC North America Holdings, Inc. (“HSBC”), by and through its attorneys, hereby removes this action pursuant to 28 U.S.C. § 1446. In support thereof, HSBC states as follows:

1. On June 4, 2019, Plaintiffs filed a 9 count complaint against HSBC in the Superior Court of Delaware. *Simpler v. HSBC North America Holdings, Inc.*, Case No. N19C-06-027-VLM (Del. Super. Ct.) (“the Delaware Superior Court Action”). Copies of the process papers and complaint are attached hereto as Exhibit A.
2. Plaintiffs served HSBC with a summons and a copy of the complaint in the Delaware Superior Court Action on July 24, 2019.
3. No other process, pleadings, or orders have been served upon HSBC.
4. This court has jurisdiction over the Delaware Superior Court Action for the following reasons:
  - (a) Plaintiffs’ claims against HSBC in the Delaware Superior Court Action are based on their purported rights under an employee benefit plan sponsored by HSBC that is subject to and governed by the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et seq.* (“ERISA”).

(b) This court has original jurisdiction over Plaintiffs' claims in the Delaware Superior Court Action under 29 U.S.C. § 1132(e)(1) and 28 U.S.C. § 1331 without regard to the amount in controversy or the diversity requirements of 28 U.S.C. § 1332.

(c) This court also has pendant jurisdiction pursuant to 28 U.S.C. § 1367 over any purported state or common law claims set forth in the complaint that are not preempted by and subject to ERISA.

5. This notice of removal has been filed within 30 days of HSBC being served with the summons and complaint in the Delaware Superior Court Action. Accordingly, HSBC's removal is timely pursuant to 28 U.S.C. § 1446(b) and the Federal Rules of Civil Procedure.

6. Pursuant to 28 U.S.C. § 1446(d), HSBC shall promptly serve upon counsel for Plaintiffs, and file with the Superior Court of Delaware, a copy of this notice.

7. By filing this notice, HSBC does not waive any defenses which may be available to it and does not concede that the allegations set forth in the complaint are sufficient to state a claim upon which relief can be granted under ERISA or any other state or federal law.

### **CONCLUSION**

For the foregoing reasons, HSBC requests that this court remove the Delaware Superior Court Action to the United States District Court for the District of Delaware, where it shall proceed as if originally commenced therein.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

OF COUNSEL:

Megan S. Webster  
Samuel P. Myler  
MAYER BROWN LLP  
71 S. Wacker Drive  
Chicago, IL 60606  
(312) 782-0600

/s/ Ryan D. Stottmann

Kenneth J. Nachbar (#2067)  
Ryan D. Stottmann (#5237)  
Sabrina M. Hendershot (#6286)  
1201 N. Market Street  
P.O. Box 1347  
Wilmington, DE 19801  
(302) 658-9200  
knachbar@mnat.com  
rstottmann@mnat.com  
shendershot@mnat.com

*Attorneys for Defendant HSBC North America Holdings, Inc.*

August 13, 2019

**CERTIFICATE OF SERVICE**

I, Sabrina M. Hendershot, hereby certify that on August 13, 2019, I caused the foregoing document to be electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

Additionally, I caused copies of the foregoing to be served via overnight Federal Express to counsel for Plaintiffs in *Simpler v. HSBC North America Holdings, Inc.*, Case No. N19C-06-027-VLM (Del. Super. Ct.) at the following address:

David B. Anthony  
Berger Harris LLP  
1105 N. Market Street, Suite 1100  
Wilmington, DE 19801

/s/ *Sabrina M. Hendershot*  
\_\_\_\_\_  
Sabrina M. Hendershot (#6286)